

IN THE COURT OF CLAIMS OF OHIO

GREGGORY C. JAY :
Plaintiff :
v. : CASE NO. 2004-01699-AD
OHIO DEPT. OF TRANSPORTATION : ENTRY OF DISMISSAL
Defendant :
:
:

THE COURT FINDS THAT:

{¶1} 1) On January 26, 2004, plaintiff, Gregory Jay, filed a complaint against defendant, Department of Transportation. Plaintiff alleges on January 10, 2004, while traveling north on State Route 8 near the intersection of Northfield Road and Aurora Road, in Bedford Heights, Ohio, a steel plate in the roadway surface became dislodged and caused damage to his vehicle. Plaintiff seeks reimbursement of automotive repairs from the defendant in the amount of \$1,669.50. Plaintiff submitted the filing fee with the complaint;

{¶2} 2) On February 6, 2004, defendant filed a motion to dismiss;

{¶3} 3) In support of the motion to dismiss, defendant stated in pertinent part:

{¶4} Defendant has performed an investigation of this site, the location of the alleged steel plate, and the maintenance records of the District Garage responsible for ODOT controlled highways in this region of Cuyahoga County. According to this investigation and the location as presented by the Bedford Heights Police Department, SR 8 @ Aurora Road falls under the maintenance jurisdiction of the Municipality of Bedford Heights. As such, this section of roadway is not within the maintenance jurisdiction of the

defendant.”;

{¶5} 4) Plaintiff has not responded to defendant’s motion to dismiss.

{¶6} THE COURT CONCLUDES THAT:

{¶7} 1) The court finds, based on the evidence presented in the claim file, the site of plaintiff’s damage-causing incident occurred within the city limits of Bedford Heights;

{¶8} 2) R.C. 5501.31, in pertinent part states:

{¶9} Except in the case of maintaining, repairing, erecting traffic signs on, or pavement marking of state highways within villages, which is mandatory as required by section 5521.01 of the Revised Code, and except as provided in section 5501.49 of the Revised Code, no duty of constructing, reconstructing, widening, resurfacing maintaining, or repairing state highways within municipal corporations, or the bridges and culverts thereon, shall attach to or rest upon the director . . .”;

{¶10} 3) The site of the damage-causing incident was not the maintenance responsibility of defendant. Consequently, plaintiff’s case is dismissed.

{¶11} IT IS ORDERED THAT:

{¶12} Having considered all the evidence in the claim file and, for the reasons set forth above, defendant's motion to dismiss is GRANTED. Plaintiff's case is DISMISSED. The court shall absorb the court costs of this case. The clerk shall serve upon all parties notice of this entry of dismissal and its date of entry upon the journal.

a. _____

DANIEL R. BORCHERT
Deputy Clerk

Entry cc:

Greggory C. Jay
5780 West Erie #39
Lorain, Ohio 44053

Plaintiff, Pro se

Thomas P. Pannett, P.E.
Assistant Legal Counsel
Department of Transportation
1980 West Broad Street
Columbus, Ohio 43223

For Defendant

DRB/laa
3/18
Filed 3/25/04
Sent to S.C. reporter 4/9/04